

UNITED STATES DISTRICT COURT

FOR THE SOUTHERN DISTRICT OF NEW YORK

VIACOM INTERNATIONAL, INC., COMEDY)
PARTNERS, COUNTRY MUSIC)
TELEVISION, INC., PARAMOUNT)
PICTURES CORPORATION, and BLACK)
ENTERTAINMENT TELEVISION, LLC,)

Plaintiffs,)

vs.) NO. 07-CV-2203

YOUTUBE, INC., YOUTUBE, LLC,)
and GOOGLE, INC.,)

Defendants.)

THE FOOTBALL ASSOCIATION PREMIER)
LEAGUE LIMITED, BOURNE CO., et al.,)
on behalf of themselves and all)
others similarly situated,)

Plaintiffs,)

vs.) NO. 07-CV-3582

YOUTUBE, INC., YOUTUBE, LLC, and)
GOOGLE, INC.,)

Defendants.)

VIDEOTAPED DEPOSITION OF HEATHER GILLETTE

SAN FRANCISCO, CALIFORNIA

TUESDAY, AUGUST 12, 2008

BY: ANDREA M. IGNACIO HOWARD, CSR, RPR, CLR

CSR LICENSE NO. 9830

JOB NO. 15481

Figueira Decl. Tab

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1 GILLETTE 32-0002

2 Q Three or four -- approximately three or
3 four months after you joined is your best
4 recollection?

5 A Approximately.

6 Q Okay. And -- and when the Live Site Team was
7 initially formed, how many people did it have?

8 A Yeah, I -- we, of course, brought in people
9 gradually. We -- we had one, and then we had two, and
10 then I think we got up to about five, approximately,
11 at -- at that early stage of development.

12 Q And you mentioned, I think, that the Live
13 Site Team responded to videos that were, quote,
14 "flagged by the community"?

15 A That's correct.

16 Q And what did you mean by that?

17 A Our -- our users can flag a video as it's
18 called on the site if they suspect that it's
19 potentially inappropriate, and so flagging sends
20 something to us. Basically our Live Site Team.

21 Q And can -- can any YouTube user flag a video?

22 A Yes, if they are logged in.

23 Q And what is the process that a user would
24 actually go through to flag a video?

25 A So from the page where you can watch an

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2 individual video, there is a mechanism there in the
3 interface that you can select, and it's a button.
4 It's labeled "Flag as Inappropriate," and from there
5 you can -- you can narrow down your flag through a
6 decision through sort of a tree, and then hit
7 "Submit."

8 Q And then what happens after the user hits
9 "Submit"?

10 A It goes to my team virtually immediately.

11 Q To the Live Site Team?

12 A Correct, and by the way, I just said, "My
13 team," but as of Friday that's not my team anymore.
14 Sorry.

15 Q And then what does the Live Site Team do with
16 that flag that comes in from the user?

17 A They review those videos for terms of use
18 violation, noncopyright terms of use violation.

19 Q Do they review all the videos that are
20 flagged?

21 A Yes.

22 Q Do they review the videos in their entirety?

23 A No --

24 Q Okay.

25 A -- not necessarily.

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Q For what reasons would they not review the entire video?

A Volume and the pace at which we have to keep up.

Q But they may, in certain instances, review an entire video?

A They may have, correct.

Q In the instances that they don't review the entire video, what do they do?

A They look at thumbnails. We now have up to 46 thumbnails that can represent the content in a video. And then there, of course, is information, you know, the user has also entered with regard to the video, like meta tags, and then there's a description. The flag in the information also shows many details basically.

Q Can they also -- are they able to hear any audio that's associated with it?

A If they choose to, yeah, when they watch it.

Q If they're just looking at the thumbnails, can they also hear the audio?

A No.

Q So if a member of the Live Site Team reviews the video in all or in part, for what purpose are

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they -- they reviewing it?

A To determine if there is, in fact, a noncopyright terms of use violation, or if it is something that is not intended for anyone younger than 18 or not appropriate.

Q And what -- what would be examples of the noncopyright terms of use violations that the Live Site Team reviews for?

A Sure.

Child pornography, adult pornography, child abuse, animal abuse, suicides, school shooting threats, murder, snuff videos. Think of anything horrible basically, and these are things that we come across and also police.

Q Are there any members or at any time were there members of -- sorry -- at any time, were there employees of YouTube who would review videos and flag them?

A Employees of YouTube who would review videos and flag them?

Q As part of their job.

A Review videos and flag them?

Q As opposed to community. That's what I'm getting at.

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2 A Yeah. There definitely were stages where we
3 would look through the most popular pages to see if we
4 could find violations. Basically assist our
5 community.

6 Q Why -- why did -- why did you just look
7 through the most popular pages in those instances?

8 A Well, let me -- actually, let me -- let me
9 give you an example of one of the more important of
10 the popular pages.

11 We used to, and I don't remember if we still
12 do, we used to have a page called "Recently Added,"
13 and that page was actually literally videos that had
14 just been uploaded, right.

15 So because these had just been uploaded, the
16 community, there wasn't a lot of time for people to
17 have caught violations yet, right. So this was
18 very -- potentially very -- there were going to be
19 some very bad violations here visible to the public,
20 and we wanted to catch those really quickly. So
21 that's -- that's actually really the primary example.
22 It was that.

23 Q So not necessarily the most popular but the
24 recently added videos?

25 A So these are the pages where we -- so when I

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say "most popular," I'm sorry. That's not accurate.
These are the pages that we highlighted. We had
several pages, "Recently Added," "Most Viewed,"
that -- that kind of thing. We had like four or five
of them.

Q Let me ask you about that.

How -- how were those pages selected by
YouTube?

MR. SHAPIRO: Objection; vague; ambiguous.

MR. BROWNE: It was. Withdrawn.

Q How did -- how did YouTube select which
videos to put on the most "Recently Added" page, for
instance?

A Well, they were -- there was no human making
these suggestions. I can tell you that. These were
things that were there because they had -- they met
the criteria that they were recently added or most
viewed would simply be some sort of, you know,
bubble-up process where the most -- the ones that were
most viewed showed up there.

Q And who was -- who was responsible, if you
know, for setting the criteria by which these
determinations were made?

A Could you say that again?